

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No.: EB-SED-14-00013385 ¹
)	
Assist Wireless, LLC)	NAL/Acct. No.: 201432100012
)	
)	FRN: 0020277489
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 18, 2014**Released: February 18, 2014**

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we propose a forfeiture in the amount of six thousand dollars (\$6,000) against Assist Wireless, LLC (Assist Wireless).² We find that Assist Wireless apparently willfully and repeatedly violated the digital wireless handset hearing aid compatibility status report filing requirements set forth in Section 20.19(i)(1) of the Commission's rules (Rules).³

II. BACKGROUND

2. In the 2003 *Hearing Aid Compatibility Order*, the Commission adopted several measures to enhance the ability of consumers with hearing loss to access digital wireless telecommunications.⁴ The Commission established technical standards that digital wireless handsets must meet to be considered

¹ The investigation initiated under File No. EB-SED-13-00012380 was subsequently assigned File No. EB-SED-14-00013385. Any future correspondence with the Commission concerning this matter should refer to the new case number.

² Assist Wireless is a Tier III mobile virtual network operator that resells wireless telecommunications services. Tier III carriers are non-nationwide wireless radio service providers with 500,000 or fewer subscribers as of the end of 2001. See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, Order to Stay, 17 FCC Rcd 14841, 14847–48, paras. 22–24 (2002). Assist Wireless was designated as an Eligible Telecommunications Carrier by the Oklahoma Corporation Commission on November 29, 2011. See *Final Order Granting Designation as a Wireless Eligible Telecommunications Carrier*, Oklahoma Corporation Commission, Order No. 591401 (Nov. 29, 2011), available at <http://imaging.occeweb.com/AP/Orders/03010CBA.pdf> (last visited Feb. 3, 2014).

³ 47 C.F.R. § 20.19(i)(1).

⁴ See *Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones*, Report and Order, 18 FCC Rcd 16753 (2003), Erratum, 18 FCC Rcd 18047 (2003), Order on Reconsideration and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11221 (2005) (*Hearing Aid Compatibility Order*). The Commission adopted these requirements for digital wireless telephones under the authority of the Hearing Aid Compatibility Act of 1988, Pub. L. No. 100-394, 102 Stat. 976 (codified at 47 U.S.C. §§ 609 note, 610, 610 note).

compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes.⁵ Specifically, the Commission adopted a standard for radio frequency interference (the M3 rating) to enable acoustic coupling between digital wireless phones and hearing aids operating in acoustic coupling mode, and a separate standard (the T3 rating) to enable inductive coupling with hearing aids operating in telecoil mode.⁶ In the 2008 *Hearing Aid Compatibility First Report and Order*, the Commission established various deadlines by which manufacturers and service providers were required to offer specified numbers of digital wireless handset models rated hearing aid-compatible.⁷

3. The Commission also adopted reporting requirements to ensure that it could monitor the availability of hearing aid-compatible handsets and to provide valuable information to the public concerning the technical testing and commercial availability of these handsets.⁸ The Commission initially required manufacturers and digital wireless service providers to report every six months on efforts toward compliance with the hearing aid compatibility requirements for the first three years of implementation, and then annually thereafter through the fifth year of implementation.⁹ In its 2008 *Hearing Aid*

⁵ See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16777, 16779, paras. 56, 63; see also 47 C.F.R. § 20.19(b)(1)-(2). The *Hearing Aid Compatibility Order* described the acoustic coupling and inductive coupling (telecoil) modes as follows:

In acoustic coupling mode, the microphone picks up surrounding sounds, desired and undesired, and converts them into electrical signals. The electrical signals are amplified as needed and then converted back into sound by the hearing aid speaker. In telecoil mode, with the microphone turned off, the telecoil picks up the audio signal-based magnetic field generated by the voice coil of a dynamic speaker in hearing aid-compatible telephones, audio loop systems, or powered neck loops. The hearing aid converts the magnetic field into electrical signals, amplifies them as needed, and converts them back into sound via the speaker. Using a telecoil avoids the feedback that often results from putting a hearing aid up against a telephone earpiece, can help prevent exposure to over amplification, and eliminates background noise, providing improved access to the telephone.

18 FCC Rcd at 16763, para. 22.

⁶ See 47 C.F.R. § 20.19(b). As subsequently amended, Section 20.19(b)(1) of the Rules provided that, for the period beginning January 1, 2010, a wireless handset is deemed hearing aid-compatible for radio frequency interference if, at a minimum, it meets the M3 rating associated with the technical standard set forth in the standard document, “American National Standard Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids,” ANSI C63.19-2007 (June 8, 2007) (ANSI C63.19-2007), except that grants of certification issued before January 1, 2010, under earlier versions of ANSI C63.19 remain valid for hearing aid compatibility purposes. 47 C.F.R. § 20.19(b)(1). Section 20.19(b)(2) provided that, for the period beginning January 1, 2010, a wireless handset is deemed hearing aid-compatible for inductive coupling if, at minimum, it meets the T3 rating associated with the technical standard set forth in ANSI C63.19-2007, except that grants of certification issued before January 1, 2010, under earlier versions of ANSI C63.19 remain valid for hearing aid compatibility purposes. 47 C.F.R. § 20.19(b)(2). Effective August 16, 2012, a further amendment to Section 20.19(b) permits manufacturers to test handsets for hearing aid compatibility using the 2011 version of the ANSI standard, ANSI C63.19-2011, as an alternative to ANSI C63.19-2007. See *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Third Report and Order, 27 FCC Rcd 3732 (WTB/OET 2012).

⁷ See *Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, First Report and Order, 23 FCC Rcd 3406, 3418–20, paras. 35–36 (2008), Order on Reconsideration and Erratum, 23 FCC Rcd 7249 (2008) (*Hearing Aid Compatibility First Report and Order*).

⁸ See *id.* at 3443, para. 91; see also 47 C.F.R. § 20.19(i).

⁹ See *Hearing Aid Compatibility Order*, 18 FCC Rcd at 16787, para. 89; see also *Wireless Telecommunications Bureau Announces Hearing Aid Compatibility Reporting Dates for Wireless Carriers and Handset Manufacturers*, Public Notice, 19 FCC Rcd 4097 (Wireless Tel. Bur. 2004).

Compatibility First Report and Order, the Commission indefinitely extended these reporting requirements with certain modifications.¹⁰

4. Assist Wireless failed to timely file its hearing aid compatibility status report for the period January 1, 2012, through December 31, 2012 (2012 Status Report), which was due to be filed on January 15, 2013.¹¹ Commission records indicate that an agent of Assist Wireless initially contacted the Commission's Wireless Telecommunications Bureau (Wireless Bureau) on or about February 15, 2013, advising the Wireless Bureau that Assist Wireless had been unable to file its 2012 Status Report by the January 15, 2013 filing deadline.¹² In response, the Wireless Bureau opened filing windows on February 26–27, 2013, and again on March 19–20, 2013, to permit the filing of the overdue report. Assist Wireless filed its 2012 Status Report on March 20, 2013.¹³ The Wireless Bureau subsequently referred Assist Wireless's apparent violation of the hearing aid compatibility reporting requirement to the Enforcement Bureau (Bureau).

5. On December 11, 2013, the Bureau's Spectrum Enforcement Division (Division) issued a letter of inquiry (LOI) to Assist Wireless, directing the company to submit a sworn written response to a series of questions related to its compliance with the hearing aid compatibility reporting requirement.¹⁴ Assist Wireless responded to the LOI on January 8, 2014.¹⁵ In its LOI Response, Assist Wireless states that, as a result of a corporate reorganization, the responsibility for hearing aid compatibility status reporting was shifted to a new employee.¹⁶ According to Assist Wireless, when company management became aware on January 13, 2013, that its 2012 Status Report had not been filed, there was insufficient time to compile the required data and file its report by the January 15, 2013, filing deadline.¹⁷ In response to a subsequent inquiry from the Division,¹⁸ Assist Wireless asserts that its agent, Visi Consulting Services, LLC, had requested from the Wireless Bureau an extension of time to file its 2012 Status

¹⁰ See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3444–46, paras. 97–99, 101. The extensions of these reporting requirements became effective on December 13, 2011. See 76 Fed. Reg. 77,415 (Dec. 13, 2011).

¹¹ Service providers are required to file their hearing aid compatibility status reports on January 15th of each year. See 47 C.F.R. § 20.19(i)(1).

¹² See also E-mail from Bobbi Ferguson, Visi Consulting Services, LLC, to James Swartz, Management Information Analyst, Spectrum and Competition Policy Division, FCC Wireless Telecommunications Bureau (Feb. 21, 2013, 9:08 EDT) (on file in EB-SED-14-00013385) (“Assist Wireless, LLC . . . respectfully requests that it be allowed to late file its Form 655 [hearing aid compatibility] report. As mentioned in our conversation on Tuesday, Assist was unable to timely file its Form 655 report due to a succession of events ranging from a relocation of company offices in 3rd quarter to back [Universal Service Administrative Company payment quality assurance and in-depth data validation] audits in 4th quarter coupled with changes in personnel and issues with our data reporting systems.”) (on file in EB-SED-14-00013385).

¹³ See *Assist Wireless, LLC*, Hearing Aid Compatibility Report (Mar. 20, 2013), http://wireless.fcc.gov/hac_documents/130411/7444149_322.PDF.

¹⁴ See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Byron Young, Chief Executive Officer, Assist Wireless, LLC (Dec. 11, 2013) (on file in EB-SED-14-00013385).

¹⁵ See Letter from Byron Young, Chief Executive Officer, Assist Wireless, LLC, to Spectrum Enforcement Division, FCC Enforcement Bureau (Jan. 8, 2014) (on file in EB-SED-14-00013385) (LOI Response).

¹⁶ *Id.* at 1.

¹⁷ *Id.* Assist Wireless also asserts that it was unable to file its 2012 Status Report during the February 2013 filing window because of technical difficulties with the FCC's website. *Id.*

¹⁸ See E-mail from Kathy Harvey, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to Byron Young, President and Chief Executive Officer, Assist Wireless, LLC (Feb. 28, 2014, 18:06 EDT) (on file in EB-SED-14-00013385).

Report, and suggests that by opening a subsequent filing window, the Wireless Bureau had granted that request.¹⁹

III. DISCUSSION

A. Failure to Timely File Hearing Aid Compatibility Status Report

6. Section 20.19(i)(1) of the Rules requires service providers to file hearing aid compatibility status reports.²⁰ These reports are necessary to enable the Commission to perform its enforcement function and to evaluate whether Assist Wireless is in compliance with Commission mandates that were adopted to facilitate the accessibility of hearing aid-compatible wireless handsets. These reports also provide valuable information to the public concerning the technical testing and commercial availability of hearing aid-compatible handsets.²¹

7. As the record in this case reflects, Assist Wireless failed to timely file its 2012 Status Report by January 15, 2013. In this regard, we reject Assist Wireless's suggestion that, by opening a new filing window for Assist Wireless, the Wireless Bureau had effectively extended the deadline by which Assist Wireless was required to file that report. At the outset, Commission records indicate that Assist Wireless did not contact the Wireless Bureau until approximately one month *after* its hearing aid compatibility status report was due. Moreover, the opening of a new filing window to permit the filing of an otherwise late-filed status report does not, standing alone, constitute an extension of the status report filing deadline. In this instance, Assist Wireless has failed to provide any written documentation or other evidence that the Wireless Bureau granted Assist Wireless an extension of time to file its 2012 Status Report. Because of the important enforcement and consumer awareness goals that hearing aid compatibility status reports serve, the Wireless Bureau requires service providers and handset manufacturers that fail to submit required reports by the filing deadline to submit late-filed status reports, and the Wireless Bureau routinely opens new filing windows for that purpose. The Wireless Bureau does not, however, routinely extend the hearing aid compatibility status report filing deadline under such circumstances. Absent any reliable evidence that Assist Wireless was granted such an extension, we find that Assist Wireless failed to timely file the hearing aid compatibility status report due on January 15, 2013, in apparent willful²² and repeated²³ violation of Section 20.19(i)(1) of the Rules.²⁴

¹⁹ See Letter from Byron Young, Chief Executive Officer, Assist Wireless, LLC, to Spectrum Enforcement Division, FCC Enforcement Bureau (Jan. 30, 2014) (on file in EB-SED-14-00013385).

²⁰ See 47 C.F.R. § 20.19(i)(1).

²¹ See *Hearing Aid Compatibility First Report and Order*, 23 FCC Rcd at 3446, para. 98 (stating that a handset model's hearing aid compatibility rating, among other relevant information, "should be readily available to service providers either from the manufacturer's previous reports to the Commission, from the manufacturer's own website, or from the manufacturer directly"). We note, however, that the Commission's Equipment Authorization System is the most reliable source for information on a handset's hearing aid compatibility rating. The Equipment Authorization System is an electronic database of all equipment certified under Commission authority. The database identifies the hearing aid compatibility rating of each handset by FCC ID, as reported by the handset manufacturer in test reports submitted to the Commission at the time of an equipment authorization or of any modification to such authorization. See <http://transition.fcc.gov/oet/ea/fccid/>.

²² Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312 clarifies that this definition of willful applies to Sections 312 and 503 of the Act, H.R. Rep. No. 97-765 (1982) (Conf. Rep.), and the Commission has so interpreted the term in the Section 503(b) context. See *S. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88, para. 5 (1991) (*Southern California*), *recons. denied*, 7 FCC Rcd 3454 (1992). In the context of a forfeiture action, "willful" does not require a finding that the rule violation was intentional. See, e.g., *Tidewater Communications, LLC*, Order on Review, 25 FCC Rcd 1675, 1676, para. 5 (2010) ("To be willful, the violator must consciously commit or omit certain actions and need not be aware

(continued....)

B. Proposed Forfeiture

8. Under Section 503(b)(1)(B) of the Communications Act of 1934, as amended (Act), any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.²⁵ To impose such a forfeiture penalty, the Commission must first issue a notice of apparent liability for forfeiture and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.²⁶ The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or the Rules.²⁷ We conclude that Assist Wireless is apparently liable for a forfeiture for its failure to timely file the required hearing aid compatibility status report in apparent willful and repeated violation of Section 20.19(i)(1) of the Rules.²⁸

9. The Commission's *Forfeiture Policy Statement* and Section 1.80(b) of the Rules set a base forfeiture amount of \$3,000 for the failure to file required forms or information.²⁹ While the base forfeiture requirements are guidelines lending some predictability to the forfeiture process, the Commission retains the discretion to depart from these guidelines and issue forfeitures on a case-by-case basis under its general forfeiture authority in Section 503 of the Act.³⁰

10. We have exercised our discretion to set a higher base forfeiture amount for violations of the wireless hearing aid compatibility reporting requirements. In *ASTCA*, we found that the status reports are essential to implement and enforce the hearing aid compatibility rules.³¹ The Commission relies on these reports to provide consumers with information regarding the technical specifications and commercial availability of hearing aid-compatible digital wireless handsets and to ensure that the digital

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that such actions violate the Rules.”); *Southern California*, 6 FCC Rcd at 4388, para. 5 (holding that, consistent with the Congressional record accompanying the 1982 amendments to the Act, a “willful” violation need not be intentional); *Princess K Fishing Corp.*, Forfeiture Order, 24 FCC Rcd 2606, 2608-09, para. 8 (Enf. Bur. 2009) (stating that a licensee need not have the *mens rea* to commit a violation in order for a violation to be “willful”), *recons. dismissed*, Memorandum Opinion and Order, 27 FCC Rcd 4707 (Enf. Bur. 2012).

²³ Section 312(f)(2) of the Act, which also applies to forfeitures assessed pursuant to Section 503(b) of the Act, defines “repeated” as “the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2); *see also Southern California*, 6 FCC Rcd at 4388, para. 5. Failure to file these reports can have an adverse impact on the Commission’s ability to ensure the commercial availability of hearing aid-compatible digital wireless handsets, to the detriment of consumers. As we have previously stated, the failure to file a hearing aid compatibility status report constitutes a continuing violation that persists until the violation is cured. *See American Samoa Telecommunications Authority*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 16432, 16437, para. 11 (Enf. Bur. 2008), *forfeiture ordered*, Forfeiture Order, 27 FCC Rcd 13174 (Enf. Bur. 2012) (forfeiture paid) (*ASTCA*).

²⁴ 47 C.F.R. § 20.19(i)(1).

²⁵ 47 U.S.C. § 503(b)(1)(B); *see also* 47 C.F.R. § 1.80(a).

²⁶ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

²⁷ *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, para. 4 (2002).

²⁸ 47 C.F.R. § 20.19(i)(1).

²⁹ *See The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113, Appendix A, Section I (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

³⁰ *See Forfeiture Policy Statement*, 12 FCC Rcd at 17099, 17101, paras. 22, 29; *see also* 47 C.F.R. § 1.80.

³¹ *See ASTCA*, 23 FCC Rcd at 16436–37, para. 10.

wireless industry meets the needs of the increasing number of consumers with hearing loss.³² In an analogous context, we noted that when setting an \$8,000 base forfeiture for violations of the hearing aid-compatible handset labeling requirements, the Commission emphasized that consumers with hearing loss could only take advantage of critically important public safety benefits of digital wireless services if they had access to accurate information regarding hearing aid compatibility features of handsets.³³ We also noted that the Commission has adjusted the base forfeiture upward when noncompliance with filing requirements interferes with the accurate administration and enforcement of Commission rules.³⁴ Because the failure to file hearing aid compatibility status reports implicates similar public safety and enforcement concerns, we exercised our discretionary authority and established a base forfeiture amount of \$6,000 for failure to file a hearing aid compatibility report.³⁵ Consistent with *ASTCA*, we believe the \$6,000 base forfeiture for violation of the hearing aid compatibility reporting requirement should apply here.

11. The \$6,000 base forfeiture, however, is subject to adjustment. In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account the “nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”³⁶ We see no basis to reduce the proposed forfeiture. Although Assist Wireless indicates in its LOI Response that its failure to timely file was an oversight,³⁷ it is well established that administrative oversight or inadvertence is not a mitigating factor warranting a downward adjustment of a forfeiture.³⁸ Similarly, a violator’s lack of knowledge or erroneous belief does not warrant a forfeiture’s downward adjustment.³⁹ In addition, we have declined to downwardly adjust a forfeiture based on claims that changes in personnel contributed to the violation.⁴⁰ In view of all the factual circumstances presented, and having considered the statutory factors enumerated above, we propose a forfeiture in the amount of \$6,000 against Assist Wireless for failing to file its

³² See *id.*

³³ See *id.*

³⁴ See *id.*

³⁵ See *id.*

³⁶ 47 U.S.C. § 503(b)(2)(E).

³⁷ LOI Response at 1.

³⁸ See *Southern California*, 6 FCC Rcd at 4387 (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”).

³⁹ See, e.g., *Profit Enterprises, Inc.*, 8 FCC Rcd 2846, 2846, para. 5 (1993) (denying the mitigation claim of a manufacturer/distributor who thought that the equipment certification and marketing requirements were inapplicable, stating that its “prior knowledge or understanding of the law is unnecessary to a determination of whether a violation existed . . . ignorance of the law is [not] a mitigating factor”); *Lakewood Broadcasting Service, Inc.*, 37 FCC 2d 437, 438, para. 6 (1972) (denying a mitigation claim of a broadcast licensee who asserted an unfamiliarity with the station identification requirements, stating that licensees are expected “to know and conform their conduct to the requirements of our rules”); *Kenneth Paul Harris, Sr.*, 15 FCC Rcd 12933, 12935, para. 7 (Enf. Bur. 2000) (denying a mitigation claim of a broadcast licensee, stating that its ignorance of the law did not excuse the unauthorized transfer of the station); *Maxwell Broadcasting Group, Inc.*, 8 FCC Rcd 784, 784, para. 2 (Mass Med. Bur. 1993) (denying a mitigation claim of a noncommercial broadcast licensee, stating that the excuse of “inadverten[ce], due to inexperience and ignorance of the rules . . . are not reasons to mitigate a forfeiture” for violation of the advertisement restrictions).

⁴⁰ See, e.g., *Emigrant Storage LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 8917, 8920 (Enf. Bur. 2012) (declining to downwardly adjust a forfeiture based on company’s claims that the violation resulted from oversight and a change in personnel).

hearing aid compatibility status report for the period ending December 31, 2012 by the January 15, 2013 deadline, in apparent willful and repeated violation of Section 20.19(i)(1) of the Rules.⁴¹

IV. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, and 1.80 of the Commission's rules,⁴² Assist Wireless, LLC is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of six thousand dollars (\$6,000) for willful and repeated violation of Section 20.19(i)(1) of the Commission's rules.⁴³

13. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days after the release date of this Notice of Apparent Liability for Forfeiture, Assist Wireless, LLC **SHALL PAY** the full amount of the proposed forfeiture, or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 16 below.

14. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Assist Wireless, LLC shall send electronic notification of payment to Pamela Hairston at Pamera.Hairston@fcc.gov, Kathy Harvey at Kathy.Harvey@fcc.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁴⁴ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Assist Wireless, LLC should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

⁴¹ 47 C.F.R. § 20.19(i)(1).

⁴² 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁴³ 47 C.F.R. § 20.19(i)(1).

⁴⁴ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

15. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, DC 20554.⁴⁵ If Assist Wireless, LLC has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

16. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the Commission's rules.⁴⁶ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Pamela Hairston at Pamela.Hairston@fcc.gov and to Kathy Harvey at Kathy.Harvey@fcc.gov. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

17. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Byron Young, Chief Executive Officer, Assist Wireless, LLC, 2402 Gravel Drive, Fort Worth, TX 76118.

FEDERAL COMMUNICATIONS COMMISSION

John D. Poutasse
Chief, Spectrum Enforcement Division
Enforcement Bureau

⁴⁵ See 47 C.F.R. § 1.1914.

⁴⁶ 47 C.F.R. §§ 1.80(f)(3), 1.16.